

State of Arkansas
91st General Assembly
First Extraordinary Session, 2017

A Bill

Call Item 2
HOUSE BILL 1001

By: Representative Gillam
By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS CONSTITUTION, ARTICLE 19, § 30, TO INTEGRATE AND INCORPORATE THE PROVISIONS OF ACTS 2017, NOS. 207, 312, AND 1108 INTO ARKANSAS CONSTITUTION, ARTICLE 19, § 30; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO INTEGRATE AND INCORPORATE THE PROVISIONS OF ACTS 2017, NOS. 207, 312, AND 1108 INTO ARKANSAS CONSTITUTION, ARTICLE 19, § 30; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. LEGISLATIVE INTENT. (a) The General Assembly finds that:

(1) Arkansas Constitution, Article 19, § 30(d) empowers the General Assembly to amend Arkansas Constitution, Article 19, § 30, so long as the amendments are germane to the section and consistent with its policy and purposes;

(2) Three (3) separate acts of the regular session of the Ninety-First General Assembly, Acts 2017, Nos. 207, 312, and 1108, amended Arkansas Constitution, Article 19, § 30;

(3) All of these acts were enacted independently of the others, and the acts do not reflect the language added by the other amendatory acts;



(4) Arkansas Code § 1-2-207, which addresses codification upon the passage of multiple acts amending the same subject matter, only references amendments to the Arkansas Code and uncodified acts and does not address the treatment of acts amending the Arkansas Constitution;

(5) The applicability of Arkansas Code § 1-2-303(d)(1), concerning nonsubstantive technical corrections to provisions of the Arkansas Code and acts of the General Assembly made under the direction of the Arkansas Code Revision Commission, is equally uncertain;

(6) It is unclear whether the Arkansas Code Revision Commission may exercise its authority under Arkansas Code §§ 1-2-207 and 1-2-303 and make the customary technical corrections, such as changes to numbering and formatting, that are made by the Arkansas Code Revision Commission to acts of the General Assembly that amend the same section of law; and

(7) Without technical corrections to the conflicting language, Arkansas Constitution, Article 19, § 30, will not read coherently and will be difficult to interpret, utilize, and cite.

(b) The intent of this act is to:

(1) Supersede certain provisions of Acts 2017, Nos. 207, 312, and 1108 that conflict with or substantively duplicate the provisions of this act; and

(2) Enact certain provisions of Acts 2017, Nos. 207, 312, and 1108 in a format that integrates and incorporates certain provisions of the three (3) acts by restating certain provisions in a coherent, cohesive, and comprehensive manner.

(c) This act does not modify or supersede:

(1) Any emergency clause or effective date clause of Acts 2017, Nos. 207, 312, and 1108; or

(2) Sections within Acts 2017, Nos. 207, 312, and 1108 that are not within this act.

SECTION 2. Under the authority granted by Arkansas Constitution Article 19, Section 30(d), Arkansas Constitution, Article 19, Section 30(b), concerning definitions applicable to the section, is amended to integrate the provisions of Acts 2017, Nos. 207, 312, and 1108, to read as follows:

(b) As used in this section:

(1)(A) "Administrative action" means a decision on, or proposal,

consideration, or making of a rule, regulation, ratemaking proceeding, or policy action by a governmental body.

(B) "Administrative action" does not include ministerial action;

(2)(A) "Gift" means ~~any payment;~~

(i) Any payment, entertainment, advance, services service, or anything of value, unless consideration of equal or greater value has been given therefor; or

(ii) Any advance or loan.

(B) "Gift" does not include:

(i)(a) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a person elected or appointed to an office under subsection (a) of this section regarding his or her official duties.

(b) Payments for travel or reimbursement for any expenses are not informational material;

(ii) Gifts that are not used and which, within thirty (30) days after receipt, are returned to the donor;

(iii) Gifts from the spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin of a person elected or appointed to an office under subsection (a) of this section, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this subdivision (b)(2)(B)(iii);

(iv) Anything of value that is readily available to the general public at no cost;

(v)(a)(1) Food or drink available at a planned activity to which a specific governmental body is invited, including without limitation a governmental body to which a person elected or appointed to an office under subsection (a) of this section is not a member.

(2) If a committee of the General Assembly is invited to a planned activity under subdivision (b)(2)(B)(v)(a)(1) of this section, only members of the committee of the General Assembly may accept food or drink at the planned activity.

(b)(1) As used in this subdivision

(b)(2)(B)(v), "planned activity" means an event for which a written invitation is distributed electronically or by other means by the lobbyist, person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist to the members of the specific governmental body at least twenty-four (24) hours before the event.

(2) As used in this subdivision (b)(2)(B)(v), "planned activity" does not include food or drink available at a meeting of a specific governmental body for which the person elected or appointed to an office under subsection (a) of this section is entitled to receive per diem for attendance at the meeting.

(c) A lobbyist, a person acting on behalf of a lobbyist, or a person employing or contracting with a lobbyist shall not offer or pay for food or drink at more than one (1) planned activity in a seven-day period;

(vi)(a) Payments by regional or national organizations for travel to regional or national conferences at which the State of Arkansas is requested to be represented by a person or persons elected or appointed to an office under subsection (a) of this section.

(b) As used in this subdivision (b)(2)(B)(vi), "travel" means transportation, lodging, and conference registration fees.

(c) This section does not prohibit the acceptance of:

(1) Food, drink, informational materials, or other items included in the conference registration fee; and

(2) Food and drink at events coordinated through the regional or national conference and provided to persons registered to attend the regional or national conference;

(vii) Campaign contributions;

(viii) Any devise or inheritance;

(ix) Salaries, benefits, services, fees, commissions, expenses, or anything of value in connection with:

(a) The employment or occupation of a person elected or appointed to an office under subsection (a) of this section or his or her spouse so long as the salary, benefit, service, fee, commission, expense, or anything of value is solely connected with the person's employment or occupation and is unrelated to and does not arise from the

duties or responsibilities of the office to which the person has been elected or appointed; or

(b) Service as an officer, director, or board member of a corporation, a firm registered to do business in the state, or other organization that files a state and federal tax return or is an affiliate of an organization that files a state and federal tax return by a person elected or appointed to an office under subsection (a) of this section or his or her spouse so long as the salary, benefit, service, fee, commission, expense, or anything of value is solely connected with the person's service as an officer, director, or board member and is unrelated to and does not arise from the duties or responsibilities of the office to which the person has been elected or appointed; ~~and~~

(x) A personalized award, plaque, or trophy with a value of one hundred fifty dollars (\$150) or less;

(xi)(a) The use of one (1) or more rooms or facilities owned, operated, or otherwise utilized by a state agency or political subdivision of the state for the purpose of conducting a meeting of a specific governmental body.

(b) As used in this subdivision (b)(2)(B)(xi):

(1) "Rooms or facilities" includes without limitation property belonging to a state agency or political subdivision used in connection with a meeting of a specific governmental body such as projectors, microphones, and computer equipment; and

(2) "State agency" means every department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education;

(xii) Nonalcoholic beverages provided to attendees at a meeting of a civic, social, or cultural organization or group;

(xiii) Food and nonalcoholic beverages provided to participants in a bona fide panel, seminar, or speaking engagement at which the audience is a civic, social, or cultural organization or group; and

(xiv) Anything of value provided by a recognized political party when serving as the host of the following events to all attendees as part of attendance at the event:

(a) The official swearing-in, inaugural, and recognition events of constitutional officers and members of the General

Assembly; and

(b) An official event of a recognized political party so long as all members of either house of the General Assembly affiliated with the recognized political party are invited to the official event;

(3) “Governmental body” or “governmental bodies” means an office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(4)(A) “Income” means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof.

(B) “Income” includes a payment made under obligation for services or other value received;

(5) “Legislative action” means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality;

(6) “Legislator” means a person who is a member of the General Assembly, a quorum court of a county, or the city council or board of directors of a municipality;

(7) “Lobbying” means communicating directly or soliciting others to communicate with a public servant with the purpose of influencing legislative action or administrative action;

(8)(A) “Lobbyist” means a person who:

~~(A)(i)~~ Receives income or reimbursement in a combined amount of four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies;

~~(B)(ii)~~ Expends four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

~~(C)(iii)~~ Expends four hundred dollars (\$400) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with a public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients.

(B) "Lobbyist" does not include a recognized political party;

(9)(A) "Person" means a business, individual, union, association, firm, committee, club, or other organization or group of persons.

(B) As used in subdivision (b)(9)(A) of this section, "business" includes without limitation a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted;

(10)(A) "Public appointee" means an individual who is appointed to a governmental body.

(B) "Public appointee" does not include an individual appointed to an elective office;

(11)(A) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body.

(B) "Public employee" does not include a public official or a public appointee;

(12) "Public official" means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office; ~~and~~

(13) "Public servant" means all public officials, public employees, and public appointees;

(14)(A) "Recognized political party" means a political party that:

(i) At the last preceding general election polled for its candidate for Governor in the state or nominees for presidential

electors at least three percent (3%) of the entire vote cast for the office;
or

(ii) Has been formed by the petition process under §
7-7-205.

(B) When a recognized political party fails to obtain
three percent (3%) of the total votes cast in an election for the office of
Governor or nominees for presidential electors, it shall cease to be a
recognized political party; and

(15)(A) "Advance or loan" means a sum of money that is borrowed
with the expectation that it be paid back, regardless of whether interest is
charged.

(B) "Advance or loan" does not include an advance or loan
made in the ordinary course of business by a:

(i) Financial institution; or

(ii) Business that regularly and customarily extends
credit.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that this act is intended to avoid
difficulties in interpreting, utilizing, and citing Arkansas Constitution,
Article 19, § 30, created by the passage of Acts 2017, Nos. 207, 312, and
1108; that this act enacts certain provisions of those acts in a format that
integrates and incorporates them by restating certain provisions of the three
(3) acts in a coherent, cohesive, and comprehensive manner; and that to avoid
confusion in the law, this act should be effective on the same date as Acts
2017, Nos. 207 and 1108. Therefore, an emergency is declared to exist, and
this act being necessary for the preservation of the public peace, health,
and safety shall become effective on July 31, 2017.